

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

Bail Appl..No. 6814 of 2007()

CRIME NO.304/07 OF OACHIRA POLICE STATION

PETITIONER : ACCUSED NOS, 1 TO 3:

1. MOHANA KUMAR, S/O.MANIYAN,
VALIYAVEETIL PUTHEN VEEDU, KADAVOOR MURI,
KARIPUZHA, KANNAMANGALAM, MAVELIKARA.

2. MANIYAN, -DO-

3. AMMINI, W/O.MANIYAN,
-DO-.

BY ADV. SRI.S.SHANAVAS KHAN

RESPONDENTS: COMPLAINANT:

THE STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 12/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

B.A. No. 6814 OF 2007

Dated this the 12th day of November, 2007

ORDER

Application for anticipatory bail. The petitioners face allegations under Sec.498A of the IPC. They are the husband of the de facto complainant and his parents. The crime has been registered for offences punishable under Secs.406 and 498A of the IPC. It was registered on the basis of a private complaint referred to the police by the learned Magistrate under Sec.156(3) of the Cr.P.C. The marriage between the spouses took place only on 9/2/07. The allegations of matrimonial cruelty of the culpable variety are raised against the petitioners. There is an allegation that the de facto complainant had become pregnant; but the husband and his relatives had insisted that she must undergo an abortion. Because of the alleged physical cruelty on her, abortion took

place, it is alleged. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that there is strain in the matrimonial tie. The de facto complainant is not able to adjust to the demands of the marital life. Reckless and exaggerated allegations are being made. In these circumstances, the petitioners may not be compelled to endure the undeserved trauma of arrest and detention. Anticipatory bail may be granted to them, it is submitted.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor points out that it is a fact that abortion had taken place.

4. Considering the peculiar facts and circumstances of this case, the learned Public Prosecutor was requested to place the Case Diary for my perusal. I have perused the same. I shall, at this early stage of the investigation, not embark on a detailed discussion on merits about the acceptability of the allegations or the credibility of the data collected. Suffice it to say that, on an anxious consideration, I am satisfied that subject to appropriate and strict conditions, anticipatory bail can be granted to the petitioners.

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5. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 19/11/07. They shall be released on regular bail on their executing bonds for Rs.25,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 20/11/07 and 21/11/07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months. Subsequently, they shall so make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if these directions were not issued at all;

(iv) If the petitioners were arrested prior to their surrender

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on 19/11/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.25,000/- each without any sureties undertaking to appear before the learned Magistrate on 19/11/07.

**Sd/
(R. BASANT, JUDGE)**

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P.S. to Judge